

This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2010).

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1163**

PID Technologies, Inc.,
Respondent,

vs.

Security Solutions, LLC, et al.,
Appellants.

**Filed April 2, 2012
Reversed
Stoneburner, Judge**

Hennepin County District Court
File No. 27CV116956

William H. Henney, Minnetonka, Minnesota (for respondent)

Dennis J. Deitzler, Richfield, Minnesota (for appellant)

Considered and decided by Klaphake, Presiding Judge; Stoneburner, Judge; and Cleary, Judge.

UNPUBLISHED OPINION

STONEBURNER, Judge

Appellant, a New Jersey company, challenges the district court's denial of its motion to dismiss for lack of personal jurisdiction. Because we conclude that appellant does not have minimum contacts with Minnesota to support an exercise of personal jurisdiction, we reverse.

FACTS

Appellant Security Solutions, LLC, (Security) is a New Jersey company providing security-system products and services. Security's principal place of business is in New Jersey. It is not registered to do business in Minnesota, has never done business in Minnesota, and its only contacts with Minnesota involve a single oral contract with respondent PID Technologies, Inc. (PID).

PID is a Minnesota corporation engaged in the business of security-and-identification-technology sales and installation. In July 2010, Robert Mitchell, a director at Security, telephoned Richard Kail, a principal of PID and a friend of Mitchell, and asked if PID could help Security with a project in New Jersey. After several telephone calls and e-mails, PID orally contracted with Security to work on the project in New Jersey as an independent contractor. PID sent invoices for its work to Mitchell at Security in New Jersey. Security paid two invoices. But problems involving Mitchell and PID developed on the project, resulting in billings to Security that were beyond the contract that Mitchell was authorized to make with PID. Security sent a final check, which was less than the amount billed, stating that it was the final payment for PID's services. PID sued Security in Minnesota for breach of contract, claiming that Security owes PID an additional \$106,046.60.

Security moved to dismiss the complaint for lack of personal jurisdiction. The district court denied the motion, and this appeal followed.

DECISION

“Whether personal jurisdiction exists is a question of law, which an appellate court reviews de novo.” *C.H. Robinson Worldwide, Inc. v. FLS Transp., Inc.*, 772 N.W.2d 528, 533 (Minn. App. 2009). Any doubts should be resolved in favor of retaining jurisdiction. *Hardrives, Inc. v. City of La Crosse*, 307 Minn. 290, 296, 240 N.W.2d 814, 818 (1976).

When a defendant challenges jurisdiction, the burden of proof to demonstrate jurisdiction is on the plaintiff. *Dent-Air, Inc. v. Beech Mountain Air Serv.*, 332 N.W.2d 904, 907 n.1 (Minn. 1983). At the pretrial stage, a plaintiff need only make a prima facie showing of jurisdiction, and the complaint and supporting evidence will be taken as true. *Hardrives*, 307 Minn. at 293, 240 N.W.2d at 816. But “if a motion to dismiss is supported by affidavits, the non-moving party cannot rely on general statements in his pleading and therefore the allegations contained in plaintiffs’ complaint cannot be used to sustain their burden of proof.” *Sausser v. Republic Mortg. Investors*, 269 N.W.2d 758, 761 (Minn. 1978).

Minnesota’s long-arm statute confers personal jurisdiction to the extent permissible under the Due Process Clause of the United States Constitution. *See* Minn. Stat. § 543.19 (2008); *Valspar Corp. v. Lukken Color Corp.*, 495 N.W.2d 408, 411 (Minn. 1992). “[I]f constitutional due-process requirements are met, Minnesota’s long-arm statute will also be satisfied.” *Viking Eng’g & Dev., Inc. v. R.S.B. Enters., Inc.*, 608 N.W.2d 166, 169 (Minn. App. 2000) (citing *Valspar*, 495 N.W.2d at 411), *review denied* (Minn. May 23, 2000). Due-process requirements are satisfied when a nonresident has sufficient “minimum contacts” with the forum state so that maintaining

jurisdiction does not offend “traditional notions of fair play and substantial justice.” *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316, 66 S. Ct. 154, 158 (1945) (quoting *Milliken v. Meyer*, 311 U.S. 457, 463, 61 S. Ct. 339, 343 (1940)). “[I]n contract cases, the contract must have a substantial connection with the state.” *Dent-Air*, 332 N.W.2d at 907. “It is ‘essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum state, thus invoking the benefits and protection of its laws.’” *Id.* (quoting *Hanson v. Denckla*, 357 U.S. 235, 253, 78 S. Ct. 1228, 1239 (1985)).

Personal jurisdiction can be asserted in two ways: general jurisdiction and specific jurisdiction. *Curtis v. Altria Grp., Inc.*, 792 N.W.2d 836, 846 (Minn. App. 2010) (citing *Helicopteros Nacionales de Colombia v. Hall*, 466 U.S. 408, 414, 104 S. Ct. 1868, 1872 (1984)), *review denied* (Minn. Mar. 15, 2011). General jurisdiction applies where a defendant conducts such systematic and continuous business within a state that the state can properly assert jurisdiction over that defendant for any purpose within the constraints of traditional notions of fair play and substantial justice. *Id.* By contrast, “[s]pecific jurisdiction can arise from a single contact with the forum if the cause of action arose out of that contact.” *Marshall v. Inn on Madeline Island*, 610 N.W.2d 670, 674 (Minn. App. 2000); *see also Marquette Nat’l Bank v. Norris*, 270 N.W.2d 290, 295-96 (Minn. 1978). The parties agree that Security’s only contact with Minnesota is the oral contract with PID for work on a project in New Jersey. PID asserts that this contact supports jurisdiction under a specific jurisdiction analysis; Security disagrees.

The supreme court has adopted a five-factor test with three primary factors and two secondary factors “to determine whether a nonresident ‘has established enough contacts with Minnesota to justify being sued here’ and whether the contacts were purposefully made to do business in this state.” *Viking Eng’g*, 608 N.W.2d at 169 (quoting *Real Properties, Inc. v. Mission Ins. Co.*, 427 N.W.2d 665, 668 (Minn. 1988)). The three primary factors are: the quantity of contacts, the nature and quality of the contacts, and the connection or relationship between the cause of action and the contacts. *Id.* The two secondary factors are the state’s interest in providing a forum and the convenience of the parties. *Id.* Applying that test to the undisputed facts in this case, we conclude that Security does not have minimum contacts with Minnesota to support personal jurisdiction.

I. Quantity of contacts

In this case, it is not clear how many contacts were made between Mitchell and Kail before an agreement was reached or who initiated contact after Mitchell’s initial call to Kail to see whether PID could help with the New Jersey project. “Mere inquiry by a prospective buyer or seller, without more, will not sustain jurisdiction.” *Id.* (quoting *Dent-Air*, 332 N.W.2d at 908). Security mailed payments to PID in Minnesota, in response to invoices sent by PID to Security in New Jersey. A letter was included with the final payment that purported to satisfy Security’s obligation to PID. Based on this record, we conclude that the quantity-of-contacts factor does not weigh in favor of the exercise of personal jurisdiction over Security in Minnesota. *See Walker Mgmt. Inc. v. FHC Enters., Inc.*, 446 N.W.2d 913, 915 (Minn. App. 1989) (concluding that an out-of-

state business's contacts with a Minnesota business primarily through the mail, by telephone, and by forwarding of funds could not support a finding of personal jurisdiction), *review denied* (Minn. Dec. 15, 1989); *see also S.B. Schmidt Paper Co. v. A to Z Paper Co., Inc.*, 452 N.W.2d 485, 488 (Minn. App. 1990) (citing *N. Am. Fin. Corp. v. Amgrar Gesellschaft Fur Farmlagen*, 702 F. Supp. 1435, 1439 (D. Minn. 1989), for the proposition that “[p]hone and mail contacts alone have been held to be insufficient to afford personal jurisdiction under the Minnesota longarm statute”).

II. Nature and quality of Security's contacts with Minnesota

The district court, reciting the contacts noted above, found that, through these contacts, “[Security] demonstrated its keenness to obtain PID's services.” Because there is no evidence in the record about the content of the communications, nor is there anything in the record indicating whether any calls or emails were actually directed to or received in Minnesota, we conclude that this finding is not supported by the record and is clearly erroneous.

“In reviewing the nature and quality of the contacts, we are attempting to ascertain whether the nonresidents ‘purposefully availed’ themselves of the benefits and protections of Minnesota law.” *Dent-Air*, 332 N.W.2d at 907. Nothing in the quality of Security's contacts with PID in Minnesota indicate that Security was seeking the benefits and protections of Minnesota law. To the contrary, all of PID's work in New Jersey was subject to New Jersey law.

III. Connection or relationship between the cause of action and the contacts

While it is true that, but for the contacts there would have been no contract and but for the contract there would be no lawsuit, all of the facts that gave rise to a dispute about whether PID was authorized under the contract to perform certain work or incur certain expenses arose in New Jersey. No part of the contract was performed in Minnesota and nothing occurred in Minnesota that gave rise to the dispute about billing. In this case, where there is not the required connection between the contract and the state of Minnesota, the relationship factor does not weigh in favor of an exercise of jurisdiction in Minnesota. *See S.B. Schmidt Paper Co.*, 452 N.W. 2d at 489 (citing *Dent-Air*, 332 N.W.2d at 907 for the proposition that “[i]n a contract dispute, there must be a substantial connection between the contract and the state”).

IV. Minnesota’s interest in providing a forum

The district court found that Minnesota has an interest in providing a forum in this case, citing *Marquette*, 270 N.W.2d at 295, for the proposition that “Minnesota obviously has an interest in providing a forum for (its) resident allegedly wronged.” We agree, but the interest in providing a forum “cannot alone provide the minimum contacts required by due process.” *Walker Mgmt.*, 446 N.W.2d at 916 (quoting *Scullin Steel Co. v. Nat’l Ry. Utilization Corp.*, 676 F.2d 309, 314 (8th Cir. 1982)).

V. Convenience of the parties

The district court found “no indication that possible presence of witnesses and/or evidence in New Jersey constitutes an excessive aggravation to either side.” We agree that there does not appear to be an “excessive aggravation” to either side whether the

forum for this lawsuit is in Minnesota or New Jersey. *See Hardrives, Inc.*, 307 Minn. at 299, 240 N.W.2d at 819 (noting that “the convenience issue cannot be dispositive since plaintiff does have some right to choose his forum and there is no serious inconvenience either way”). But in this case, PID employees traveled to New Jersey to work on this project and every aspect of the contract dispute arose in New Jersey. Plainly, New Jersey is the most convenient forum. And even if a Minnesota forum is not “seriously inconvenient” to Security for litigation of this contract dispute, this factor cannot create the minimum contacts required to support an exercise of jurisdiction over Security in Minnesota.

Reversed.